

REMARKS

Reconsideration of the subject application in view of the present amendment is respectfully requested.

By the present amendment, Claim 1 has been amended.

Based on the foregoing amendments and the following remarks, the application is deemed to be in condition for allowance, and action to that end is respectfully requested.

The Examiner rejected Claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by Gray U.S. Patent No. 3,842,596 (Gray). Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Gray in view of Kreiblich et al. U.S. Patent No. 4,259,198 (Kreiblich) and Burns et al., U.S. Patent 4,431,649 (Burns). Claim 6 was rejected as being unpatentable over Gray in view of Burns. It is respectfully submitted that Claims 1-6 are patentable over the cited references.

Specifically, Claim 1 recites at least one latent heat accumulator that accumulates heat during operation of the power tool and the heat releases when the operational cycle has ended. No such heat accumulator is disclosed in Gray.

Gray operates on a completely different principle. Gray prevents overheating by distributing the heat during operation of a rotating body. In Gray,

there is provided and “evaporator” that evaporates liquid, with the vapors absorbing the heat and carrying it along the rotating body to the end of the body remote from the “evaporator” end where the heat is “released” due to the body being cooler at this end. No latent heat storage is disclosed in Gray. In Gray, the heat reduction results from heat exchange between an evaporator and condenser which are spaced from each other. Clearly, in Gray, the means for preventing overheating is different from those according to Claim 1.

According to case law, in order to meet a claim limitation, the prior art must (1) perform the identical function recited in the claim limitation and (2) perform that function using the structure disclosed in the specification or an equivalent structure. *Cf. Carroll Touch Inc. v. Electro Mechanical Sys. Inc.*, 15 F.3d 1573, 1578 27 USPQ2d 1836, 1840 (Fed. Cir. 1994); *Valmont Indus. Inc. v. Reinke Mfg. Co.*, 983 F.2d 1039, 1042 25 USPQ2d 1451, 1454 (Fed. Cir. 1993); *Johnston v. IVAC Corp.*, 885 F.2d 1574, 1580, 12 USPQ2d 1382, 1386 (Fed. Cir. 1989).

In Gray, the structure that performs the function of preventing overheating is clearly not an equivalent of the structure (latent heat accumulator) recited in Claim 1.

Since Gray fails to disclose each and every feature of independent Claim 1, Gray, as a matter of law, does not anticipate the present invention, as defined by said independent claim.

In view of the above, it is respectfully submitted that Gray does not anticipate or make obvious the present invention as defined in Claim 1, and the present invention is patentable over Gray.

The secondary references likewise do not disclose the moved features of the present invention recited in Claim 1.

Claims 2 – 6 depend on Claim 1 and are allowable for the same reasons Claim 1 is allowable and further because of specific features recited therein which, when taken alone and/or in combination with features recited in Claim 1 are not disclosed or suggested in the prior art.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal

respects in order to place the case in condition for final allowance, it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

Alexander Zinchuk

Alexander Zinchuk, Reg. No.30,541

Dated: March 7, 2005
Sidley Austin Brown & Wood LLP
875 Third Avenue
New York, N.Y. 10022
Tel.: (212) 906-2585

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail and addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 7, 2005.

Alexander Zinchuk

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